

**BY COUNCILMEMBER ANNE FAUVER
AS SUBSTITUTED BY TRANSPORTATION COMMITTEE**

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, PART II - GENERAL ORDINANCES, CHAPTER 138 STREETS, SIDEWALKS AND OTHER PUBLIC PLACES, ARTICLE II, ENCROACHMENTS, BY CREATING A NEW DIVISION, DIVISION 7, SECTION 138-61; AUTHORIZING THE PLACEMENT OF DUMPSTERS IN THE RIGHT-OF-WAY UNDER PRESCRIBED CONDITIONS; SETTING FORTH REQUIREMENTS FOR INFORMATION AND REFLECTORS TO BE PLACED ON THE DUMPSTERS;; AND FOR OTHER PURPOSES.

WHEREAS, many communities are experiencing revitalization and a significant increase in renovation projects associated with a recent economic upturn; and

WHEREAS, the City of Atlanta's Code of Ordinances does not address the issue of post construction trash receptacles, commonly known as "drop off dumpsters" which are used to facilitate the disposal of debris commonly associated with construction and renovation and placed in the public right-of-way; and

WHEREAS, the placement of drop off dumpsters in the public right-of-way is causing concerns for residents because the dumpsters are not illuminated and cannot be seen at night until residents or vehicular traffic are extremely close to them; and

WHEREAS, the drop off dumpsters currently placed in the public right-of-way do not have any identification so that concerned citizens can contact the dumpster owners to let them know of their concern about potential hazard these non-illuminated drop off dumpsters pose; and

WHEREAS, the Council of the City of Atlanta may adopt reasonable regulations in the interest of public health, safety and welfare and reach no further than necessary to accomplish said objectives;

**NOW THEREFORE THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA
HEREBY ORDAINS, as follows:**

SECTION 1: That the Code of Ordinances of the City of Atlanta Part II - General Ordinances, Chapter 138 Streets, Sidewalks and Other Public Places, Article II Encroachments, is amended by adding a new Division 7, Subsection 138-61 as follows:

Sec. 138-61-Dumpsters in the Right-of-Way

(a) Definitions. The following words, terms and phrases, when used in this subsection, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

- (1) "Dumpster" shall mean any container used for the storage, collection, or removal of construction debris, demolition debris, or other discarded material but shall not include a refuse compactor or grease container, and shall also not include the refuse containers.
- (2) "Graffiti" shall mean an inscription, drawing, mark or design that is painted, sprayed or otherwise placed on or in a dumpster without the consent of the provider
- (3) "Provider" shall mean the person who leases or otherwise provides a dumpster for temporary use at the location requested.

(b) Permit required.

It shall be prohibited and it shall be unlawful for any person to place or maintain a dumpster on the public right-of-way unless such person shall first obtain a dumpster permit from the department of public works.

(c) Application.

An application for a dumpster permit shall be made to the commissioner of public works by the provider. The application form shall require the applicant to provide the following information:

- (1) the name, address and telephone number of the provider;
- (2) the number of dumpster(s) requested to occupy the permitted location;
- (3) the street address adjacent to the permitted location;
- (4) the intended use of the dumpster(s); and
- (5) the intended period of occupancy of the dumpster(s).

(d) Conditions of Permit

(1) Demonstrated need as condition of permit

No dumpster permit shall be issued unless the provider shall first demonstrate to the commissioner of public works that the dumpster(s) cannot be accommodated on private property.

(2) Indemnification Insurance as condition of permit

No dumpster permit shall be issued until the applicant for such permit shall first have presented to the commissioner of public works or his designee evidence of insurance issued to indemnify and hold harmless the city, its agents, officers and employees from all claims arising out of the any injury to persons or damage to property resulting from the placement, presence, use, maintenance or removal of the permitted dumpster on, in,

over or within the public right-of-way. Such insurance shall be furnished by an insurer satisfactory to the City, the amount of the policy being determined by the city's risk manager to be adequate to protect the interests the public and shall name the City of Atlanta, its officers, employees and agents as additional insured.. The insurance shall be maintained in effect at all times that the dumpster remains on the public right-of-way.

(3) Reimbursement of damages to city.

The granting of permission to place or maintain a dumpster on, or in, the public right-of-way shall be contingent upon the agreement of the provider to repair any damage to the public way resulting from the placement, maintenance, use or removal of the dumpster during the times the dumpster remains on the public right-of-way.

(4) Compliance with this chapter.

The granting of permission to place or maintain a dumpster on, or in, the public right-of-way shall be contingent upon the agreement of the provider to comply with all the terms of this chapter and to comply with all other ordinances and regulations of the city.

(e) Permit fee.

The applicant for a permit issued by the department of public works for dumpster placement shall, upon receipt of such permit, pay to the city a permit fee as provided in this section.

(1) There shall be a \$20 fixed fee for all permits issued as provided in this section, unless otherwise provided herein.

(2) A permit cost for use of up to 100 linear feet of any portion of the adjacent curb lane shall be \$10 per calendar day for the duration of the permit.

(3) A permit cost for use of 101 to 200 linear feet of any portion of the adjacent curb lane shall be \$15 per calendar day for the duration of the permit.

(4) A permit cost for use of 201 to 300 linear feet of any portion of the adjacent curb lane shall be \$20 per calendar day for the duration of the permit.

(5) A permit cost for use of over 300 linear feet of any portion of the adjacent curb lane shall be \$25 per calendar day for the duration of the permit.

(6) An additional fee to recover the cost of the blocked parking meters, or to recover the cost of the issuance of emergency no parking signs or other materials related to traffic control measures may be added to the cost of the permit, where applicable.

(f) Dumpster identification.

The commissioner of public works is authorized to establish and publish a list of conditions and requirements for the placement, maintenance, use or removal of any dumpster in the public way in a manner not inconsistent with this chapter. Said

conditions shall contain, but not be limited to, the requirement to clearly identify all dumpsters in the public right-of-way in the following manner:

- (1) clear identification of the name and telephone number of the provider, visibly displayed in a conspicuous manner, according to standards established and published by the commissioner of the department of public works.
- (2) the display of a unique identification number for the dumpster; and
- (3) the requirement to affix and maintain, on each of the four corners of the dumpster, high-intensity retro-reflective sheeting, or other retro-reflective or prismatic material or substance according to standards established and published by the commissioner of the department of public works.

(g) Location.

No dumpster shall be permitted for a location that is:

- (1) Within 40 feet of any bus stop.
- (2) Within 20 feet of any parking space designated for persons with disabilities.
- (3) Within 20 feet of any pedestrian crosswalk.
- (4) Within 30 feet of any intersection.
- (5) Within 15 feet of any fire hydrant.
- (6) On any sidewalk, unless the dumpster provider demonstrates to the satisfaction of the commissioner of public works or his designee that an alternative location is not feasible and that placement of the dumpster(s) on such sidewalk would not create a safety hazard, disrupt pedestrian or vehicular traffic, or damage public or private property.

(h) Placement, appearance and maintenance of dumpster.

It shall be the responsibility of the provider:

- (1) Upon delivery, to place the dumpster immediately adjacent to the property identified by the street address stated on the permit application.
- (2) Upon delivery, to maintain the dumpster free of graffiti.
- (3) Within three business days of receiving notification from the commissioner of public works, remove graffiti from the dumpster(s) identified in the notification.
- (4) When transporting or otherwise moving a dumpster, to ensure that no portion of the load is falling, shifting, blowing, dropping or in any way escaping from the dumpster. The provider shall use a tarpaulin or other appropriate cover to secure the top of a dumpster while in transit.

(i) Violations

- (1) Violations of the conditions stated in the permit required by this section, or failure to obtain or maintain a valid permit shall constitute an offense and shall be punishable as provided under in the penalty section of this chapter.
- (2) Any dumpster in the public right of way not bearing its identification information or reflective material as required by subsection (f) of this section, shall be in violation of the requirements of this section; and
- (3) Any dumpster not located immediately adjacent to the street address specified in the permit shall be in violation of this section; and
- (4) Each day that a violation exists shall constitute a separate offense.

(j) Enforcement and Penalties

Upon a determination that a person is in violation of this chapter, the commissioner of public works or his designee shall give notice or issue a citation that indicates the person is in violation of a section of this chapter. Should the violation continue after the person receives notice, the commissioner or his designee may cite the violator to appear before the judge of the municipal court for a hearing on the charge of violation of this chapter. Upon a finding that a section of this chapter has been violated, the violator shall be subject to one or more of the following penalties:

- (1) The revocation or suspension of a permit issued in accordance with this section.
- (2) A fine not exceeding \$1,000.00 a day for a violation of this section.
- (3) Imprisonment for a term not exceeding six months.

SECTION 2: That the remaining subsections of Article II, subsections 138-62 through 138-64, continue to be reserved.